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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/639,310	08/14/2000	Jay Paul Drummond	D-1077+18	9530
28995	7590	07/29/2011		
RALPH E. JOCKE Walker & Jocke 231 SOUTH BROADWAY MEDINA, OH 44256			EXAMINER AKINTOLA, OLABODE	
			ART UNIT 3691	PAPER NUMBER
			MAIL DATE 07/29/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 3691

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, and Simmons.

Re claims 1 and 2: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, and Simmons (*and Patterson*).

Art Unit: 3691

Re claim 7: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, this claim remains rejected.

Examiner inadvertently omitted Patterson in the heading of the office action mailed on 04/06/2011. However, this does not change the fact that rejection of this claim was sustained by the BPAI as articulated in the body of the rejection in the said office action.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons and Clausing.

Re claim 13: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Claims 17 and 41 rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons and Patterson.

Re claims 17 and 41: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Examiner notes that the (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008) sustained the rejection of previously submitted claim 23 (combination of previously submitted

Art Unit: 3691

claims 21 and 2). Since the limitations of previously submitted claim 23 (currently claim 2) are the same as the current claim 17, claim 17 is similarly rejected under the same rationale as claims 13 and 2.

Examiner further notes that even though it appears that the BPAI did not sustain this rejection based on the fact that the claim depends on previous claim 13 which was not sustained, however, the BPAI issued a new ground of rejection for claim 13. As such the allowability of claim 17 based on dependency on claim 13 has been rendered moot by the new ground of rejection. Examiner asserts that this was an inadvertent typographical error. If Examiner were to allow this claim, the reason for allowance cannot be valid based on the new ground of rejection by the BPAI and the affirmation of the rejection of claim 2.

Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons, Clausing and Patterson.

Re claims 39 and 40: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected (see the rejection of claims 16 and 2).

Allowable Subject Matter

Claims 11 and 34-38 are allowed.

Response to Arguments

Applicant's arguments filed 7/5/2011 have been fully considered but they are not persuasive.

See Examiner's Remarks above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

Art Unit: 3691

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olabode Akintola/
Primary Examiner, Art Unit 3691